

impingement syndrome in the left shoulder, bilateral carpal tunnel syndrome, and cervical problems as a result of his alleged work-related accidents.

The Appeals Board finds that claimant on February 23, 1996, slipped and fell at work while stepping off his truck. Claimant believes he landed on his shoulders, back, and head. Claimant reported the accident to respondent who then referred him to the company physician for treatment. After two visits with the company doctor, claimant returned to work to his regular duties which required repetitive motion of the upper extremities.

Over the course of the next several months, claimant noticed progressively worsening symptoms in his shoulders, neck, and upper extremities. Claimant believes his neck symptoms began in April 1996. Claimant reported the physical problems he was experiencing to his supervisor who provided claimant with another worker to help stack pallets and who also modified some of claimant's other duties.

In June 1996, claimant again slipped and fell onto the floor of a truck-trailer while removing products. Claimant immediately reported the incident to respondent and advised he would see his personal physician that afternoon. At that time, claimant was experiencing pain in his shoulders, neck, and left arm.

When he saw his personal physician in June 1996, claimant's symptoms were progressively worsening. Claimant's personal physician recommended claimant return to the company doctor. With the respondent's knowledge, claimant saw the company doctor on June 28, 1996, who recommended claimant continue to see his personal physician. By June 28, 1996, claimant was having difficulty turning his head and raising his left arm. Claimant reported to the company doctor that his neck stiffness and pain which radiated down the left arm had existed for two or three months.

Despite the need for medical treatment, claimant continued to work for respondent until mid-July 1996 when he was told to have an MRI and referred to a neurosurgeon. Claimant has not worked since July 1996 but has undergone various medical treatment including, among other modalities, two sessions of physical therapy, a myelogram, cervical traction, nerve conduction test, steroid epidural injections, and muscle-hardening therapy. Presently, claimant is receiving treatment for bilateral carpal tunnel syndrome in addition to treatment for the neck and shoulders.

The Appeals Board finds claimant for preliminary hearing purposes has proven that it is more probably true than not that his present physical problems pertaining to his neck, shoulders, and upper extremities are the result of an accidental injury which arose out of and in the course of his employment with the respondent. Claimant described the physical labor which he performed for the respondent and the manner in which his symptoms progressively developed and worsened. Claimant's testimony is uncontroverted that he worked for respondent between 70 and 80 hours per week depending upon the weather. Considering the present evidentiary record, the Appeals Board concludes that it is more

probable claimant's present injuries were either caused or aggravated by the work activities which claimant performed between February 23 and July 16, 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Decision dated April 18, 1997, should be, and hereby is, reversed; that claimant's present symptoms and physical complaints are caused by an accidental injury which arose out of and in the course of his employment with the respondent; and that this proceeding is hereby remanded to the Administrative Law Judge for the determination of benefits.

IT IS SO ORDERED.

Dated this ____ day of June 1997.

BOARD MEMBER

c: Michael R. Wallace, Shawnee Mission, KS
Marcia L. Yates, Kansas City, MO
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director